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T R A C T S,

CONCERNING THE

1509/880.
ANCIENT AND ONLY TRUE LEGAL

M E A N S

O F

NATIONAL DEFENCE,

B Y A

FREE MILITIA.

- I. The ancient Common-Law Right of *associating with the Vicinage*, in every County, District, or Town, to support the civil Magistrate in maintaining the Peace.
 - II. A *general Militia*, acting by a well-regulated *Rotation*, is the only safe Means of defending a *free People*.
 - III. Remarks concerning the trained Bands of the City of *London*.
 - IV. Hints of some general Principles, which may be useful to military Associations.
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THE
ANCIENT COMMON-LAW
RIGHT
OF
ASSOCIATING WITH THE
VICINAGE,

In every County, District, or Town, to support the
Civil Magistrate in maintaining the Peace.



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THE HISTORY OF

ANCIENT COMMON-LAW

R I G H T

ASSOCIATING WITH THE

V I C I N A C E

Is every County, District, & Town, to support the
Civil Rights in maintaining the Law

THE HISTORY OF

THE
Ancient Common-Law Right
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Civil Magistrate, in maintaining the Peace.

MAN being, by *nature*, a social creature, it is *natural* for him to *associate* with his brethren and neighbours, for common defence against all *unjust violence*; and such *association* being *just* and *reasonable*, as well as *natural*, we have not only a *right* thus to associate, but are even *bound* to do it, by a branch of the *common-law*, which cannot *legally* be changed: for it is fixed upon *all* men,
in

in their respective districts and countries, as an indispensable DUTY, by "THE
 " LAW OF NATURE AND NATIONS,
 " *that we may become assisting*" (says Cowel, tit. 2.) " *both to our parents and*
 " *country; and REPELL FORCE AND IN-*
 " *JURY: and from hence it comes,*" (says he,) " *that whatsoever we do, for the de-*
 " *fence of our own bodies, is adjudged legal.*"
 For which he cites Bracton, l. i. c. 6.†
 num.

† This c. 6. seems to be an error of the press, instead of c. 5. num. 7. the proper reference to Bracton's declaration concerning the NATURAL RIGHT of all men to RESIST VIOLENCE AND INJURY.— "*Hoc autem jus gentium solum hominibus commune est, veluti erga Deum religio, ut parentibus et patriæ parcamus, ut vim atque INJURIAM PROPULSEMUS, nam DE JURE hoc evenit, ut quod quis ob sui tutelam corporis fecerit, JURE fecisse existimetur. Item cum inter homines cognitionem quandam constituit natura, consequens est hominem homini insidiari nephas esse.*" But this noble constitution of nature, whereby we ought to esteem all mankind as brethren, is utterly corrupted by the hardened iniquity of temporal governments! The laws of nature and sound Policy require every industrious citizen to be exercised and expert in "*Arms of Defence and Peace,*" for mutual protection; but these, alas! are too generally discouraged and neglected,



num. 7. So the Author of Doctor and Student, in his second chapter, concerning the law of Nature and Nations, and the law of Reason, asserts, that, "*by the law of reason, it is lawful to repel force with force; and that it is THE RIGHT OF EVERY ONE*" (*fas est unicuique se tueri, &c.*) " TO DEFEND HIMSELF

" AND

glected, whilst *arms of offence and robbery* are eagerly preparing in every port! The unprincipled and abandoned part of mankind, that lay aside all *discernment between right and wrong*, are prompted, by royal Proclamations, not merely to "*covet their neighbours goods*," but to *lay wait for and take them*; whereby war is more notoriously declared, and is infinitely more active *against trade, and the honourable merchants of the world*, than against the standing armies and navies of our enemies! Thus the seas swarm with piratical banditti, carrying letters of *dispensation for dishonesty*, and "*the earth is filled with violence!*" Have we not cause to expect some tremendous vengeance to vindicate the *righteousness of God*; or that the Almighty will once more command the elements to sweep *corrupted man* from the face of the earth? We are secured indeed, by divine promise, from any future general destruction, by a deluge of *water*; but the elements of *tempest and fire* are still reserved to execute the wrath of God, and are frequently mentioned as the instruments of his vengeance. Isaiah xvii. 13. Psa. lxxxiii. 13-15. cxlviii. 8. Dan. ii. 35. 2 Thess. i. 8. 2 Pet. iii. 7.

" AND HIS PROPERTY AGAINST UNJUST
 " VIOLENCE."† And again, in his fifth
 chapter, concerning the first foundation
 of English law, *Reason*, he again repeats
 the maxim, that " *it is lawful to repell*
" force with force for the defence of the
*" body, due circumstances being observed."**
 Now, as the Laws of *reason* and *nature*
are immutable,† this natural right of *as-*
sociating

† Lex rationis permittat plurima fieri, ut scilicet
 quod licitum est vim vi repellere, et quod *fas est unicui-*
que se tueri, et rem suam defendere contra vim injustam.
 Doct. et Stud. c. ii. p. 8.

*—" Quod licitum est vim vi repellere pro tuitione
 " corporis, debitis circumstantiis servatis." C. 5.
 p. 14. b.

† " Et quod LEX RATIONIS in corde scribitur, ideo
 " *deleri non potest, nec etiam recipit mutationem ex loco*
 " *nec tempore, sed ubique, et inter omnes homines,*
 " *servari debet.* Nam JURA NATURALIA IMMUTA-
 " BILIA SUNT, ET RATIO IMMUTATIONIS EST,
 " QUOD RECIPIUNT NATURAM REI PRO FUNDAMEN-
 " MENTO, *quæ semper eadem est, et ubique, &c.*"——
 " Et contra eam" (legem rationis vel naturæ) " non est
 " præscriptio, vel ad appositum statutum five consuetu-
 " do. Et, si aliqua fiat, non sunt statuta, five consue-
 " tudines, sed corruptelæ." Doct. et Stud. c. ii. p. 5.

sociating for common defence and peace, and the *natural right* of every individual to *repel force with force*, in defence of himself and property, can never be annulled by *any act of parliament*, but must ever be esteemed as *immutable rights of the common law*, and must always remain in force, unless the government should unhappily *cease to be LEGAL*, by setting aside the first foundations of the LAW! Ancient statutes, however, though not the foundation of *these rights*, yet bear ample testimony to the exercise or usage of them: for, what is "*the power of the countie*," so often mentioned in the ancient law and statutes, but an *armed association of the vicinage*?—an association, from which no layman, from 15 to 60 years of age, was exempt. See Lambard's *Eirenarcha*, third book, p. 316, title, "*Power of the Countie*."—"That *the Justices of the peace, Sherife, or*
 B () "*Under-*

" Under-sherife, ought to have the aide and
 " attendance of ALL the KNIGHTES, GEN-
 " TLEMEN, YEOMEN, LABOURERS,
 " SERVAUNTS, APPRENTICES, and VIL-
 " LAINES: and likewise of WARDES:
 " and of other YONG MEN that be above
 " the age of XV. years; for ALL of that
 " age are bound to have harnesse * by the
 " statute

* The word *Harnesse* was used to express all necessary
accoutrements for war, according to the rank of the
 bearers, and comprehended not only belts and armour,
 but likewise arms and weapons, of every sort, that, for the
 time being, might be esteemed most useful; so that in
 the old Dictionary, by Minshew, (printed in the time
 of king James I.) the word is explained by the Greek
 plural, *τα ὄπλα*, which signifies arms, or instruments of
 war of all sorts in general; and this is the sense also of
 the word *Armure*, as used in the above-cited statute of
 Winchester, (13 king Edw. I.) which, in the old En-
 glish version of it, is rendered *Harnes*, viz. " And
 " further, it is commanded, that EVERY MAN have in
 " his house HARNEIS," (in the original statute, written
 in old French, the word is "*Armure*," which, by the
 context, must necessarily be understood to comprehend
 Arms as well as Armour,) " for to keep the peace, after
 " the ancient assise: that is to say; (2) EVERY MAN,
 " between 15 years of age and 60 years, shall be assessed
 " and sworn to ARMOR, according to the quantity of their
 " lands and goods: (3) that is to wit; from £15 lands
 " and

"statute of Winchester." See also, in page 479 of the Eirenarcha, a farther testimony that the law requires all laymen not only to have *arms*, but also to be *well exercised therein*. See title, "*Archerie*."

"*If any man, being the QUEEN's subject,*" (the author wrote in the reign of queen Elizabeth,) "*and not have reasonable cause or impediment, and being within the age of 60 years, (except spirituall men, justices of one bench or other,*"

B 2

"justices

"*and goods, 40 marks, AN HAUBERKE, A BREAST-PLATE OF IRON,*" ("*shapell de ferre,*") "*A SWORD, A KNIFE, AND AN HORSE: And from £10 lands and 20 marks goods, AN HAUBERKE, A BREAST-PLATE OF IRON, A SWORD, AND A KNIFE: (5) And from £5 lands, A DOUBLET, A BREAST-PLATE OF IRON, A SWORD, AND A KNIFE: (6) And from 40s. land and more, unto 100s. of land, A SWORD, A BOW AND ARROWS, AND A KNIFE: (7) And be that hath less than 40s. yearly shall be sworn to keep GISARMS,* KNIVES, AND OTHER LESS WEAPONS: And all other that may shall have BOWS AND ARROWS out of the forest, and in the forest BOWS AND BOULTS, &c."* St. ii. c. 6. A. D. 1285.

* Gisarms, properly "*GUISARME,*" (*cu*) "*PERTUISANE, arme militaire fait comme une lance, ou comme une longue bayonnette.*"

Dictionnaire du vieux Language François, par M. Lacombe,

“ justices of assise, and barons of the ex-
 “ chequer,) have not A LONG BOW AND
 “ ARROWES READIE IN HIS HOUSE, or
 “ *have not* USED SHOOTING THEREIN ;”
 (which is a clear command to be *exercised*
 in arms;) “ or have not, for EVERY
 “ MAN-CHILD IN HIS HOUSE, (betweene
 “ 7 yeeres and 17 of age,) a bow and 2
 “ shafts; and for every such, being a-
 “ bove 17 yeeres, a bow and 4 shafts;
 “ or have not BROUGHT THEM UP IN
 “ SHOOTING, &c. he loses 6s. 8d. for
 “ each month.” And, under the same
 head, he informs us, that, if any man,
 above the age of 24 years, “ have shot at
 “ any marke under *eleven score yards*,”
 (*viz.* one furlong, or 220 yards,) “ *with*
 “ *any prick-shaft or flight*,” he shall
 “ loose 6s. 8d. for every shot.” Also,
 “ *if the inhabitants of any towne have not*
 “ *made and continued their Buts as they*
 “ *ought to do,*” — “ lose 20s. for every 3
 “ moneths;” (Eirenarcha, 4 book; p.

478, 479;) for which he cites 33 Hen. VIII. c. 9. in which, indeed, the obligation for *every man* to have arms, and *be exercised* therein, is expressed still in stronger terms, viz. “—that butts be
 “ made, on this side the feast of St. Michael the Archangel next coming, in every city, town, and place, by the inhabitants of every such city, town, and place, ACCORDING TO THE LAW OF ANCIENT TIMES USED, and that the said inhabitants, and dwellers in every of them, be COMPELLED TO MAKE AND CONTINUE SUCH BUTTS, upon pain to forfeit, for every 3 months so lacking, 20s. And that THE SAID INHABITANTS SHALL EXERCISE THEMSELVES WITH LONG-BOWS IN SHOOTING AT THE SAME, and elsewhere, in holy days and other times convenient. And, to the intent that EVERY PERSON may have bows of mean
 “ price,

" *price*, be it enacted, &c." § iv. and v. Thus the law not only *permits*, but absolutely *requires*, EVERY PERSON to *have arms*, and be EXERCISED in the use of them.

The exercise of the Long-bow was formerly esteemed the most effectual military discipline for the defence of the kingdom, and is so declared in another act of parliament of the same year, cap. 6.* and, therefore, as the law, at that time, *required* EVERY MAN to be *exercised* in the use of the *then* fashionable weapons, the reason of the law holds equally

— " *Divers gentlemen, yeomen, and serving-men, now of late have laid apart the good and laudable exercise of the Long-bow, which always heretofore hath been the surety, safeguard, and continual defence, of this realm of England, and an inestimable dread and terror to the enemies of the same.*" (Extract from the preamble to the act of 33 Hen. VIII. c. 6.)

Hence it is plain, that " *gentlemen, yeomen, and serving men,*" were required, by law, to be *exercised* in the use of such arms as were esteemed the best for the safeguard and defence of the realm.

qually good, to require the exercise of ALL
 MEN in the use of the present fashionable
 weapons, the *musquet* and *bayonet*.
 [But even] at that time, the use of mus-
 quets, or guns, was allowed to the inha-
 bitants of all cities, boroughs, and mar-
 ket-towns, and for the very same reason,
 (the defence of the realm,) by a provisio-
 nal clause of the last-mentioned act, 's
 viz. "Provided alway, and be it enact-
 ed, &c. that it shall be lawful, from
 " henceforth, to all gentlemen, yeomen,
 " and serving-men of every lord, spiri-
 " tual and temporal, and of all knights,
 " esquires, and gentlemen, and to ALL
 " THE INHABITANTS of cities, bo-
 " roughs, and market-towns, of this
 " realm of England, to shoot with any
 " hand-gun, demihake, or hagbut, at any
 " butt or bank of earth, only in place con-
 " venient for the same," (whereby it ap-
 pears that proper places for exercise
 should

should be appointed in every town,) "so
 " that every such hand-gun, &c. be of
 " the several lengths aforesaid, and NOT
 " UNDER. And that it shall be lawful,
 " to every of the said lord and lords,
 " knights, esquires, and gentlemen,
 " and the INHABITANTS of EVERY CI-
 " TY, BOROUGH, AND MARKET-
 " TOWN, to have and keep in every of
 " their houses any such hand-gun or hand-
 " guns, of the length of one whole yard,
 " &c. and NOT UNDER, to the intent to
 " use and shoot in the same, at a butt or
 " bank of earth only, as is above said,
 " whereby they and EVERY OF THEM, BY
 " THE EXERCISE THEREOF, in form
 " above said, MAY THE BETTER AID
 " AND ASSIST TO THE DEFENCE OF
 " THIS REALM, WHEN NEED SHALL
 " REQUIRE," &c. This statute is still
 in force.

Every

Every temporal person was (formerly) liable to pecuniary penalties; “if he have not” (says Lambard) “and keep not in readinesse, such horses, geldings, weapon, armour, or other furniture for the wars, as, after the proportion of his abilitie, he ought to have and keepe.”

(Eirenarcha, book iv. c. 4, p. 480.)

Thus stood the law so late as the latter end of queen Elizabeth’s reign, when the book last-cited was published; and the general tenor of the doctrine, respecting the right of Englishmen to have arms, hath since been confirmed, by the Declaration of Rights in the Act of Settlement, (1 Wm & Mary, st. 2, c. 2,) though it seems now to be limited to Protestant subjects, viz. “That the subjects which are Protestants MAY HAVE ARMS FOR THEIR DEFENCE, suitable to their conditions, and as allowed by law.”—This latter expression, “as allowed by law,” respects the limitations in the above-mentioned act

of 33 Hen. VIII. c. 6; which restrain the use of *some particular sorts of arms*, meaning only such arms as were liable to be concealed, or otherwise favour the designs of murderers, as “ *cross-bows, little short hand-guns, and little bag-buts,*” and all guns UNDER CERTAIN LENGTHS, specified in the act; but *proper arms for defence* (provided they are *not shorter* than the act directs) are so far from being forbidden by this statute, that they are clearly authorised, and “ *the exercise thereof*” expressly recommended by it, as I have already shewn. And indeed the laws of England always required the people to be armed, and not only to be *armed*, but to be *expert in arms*; which last was particularly recommended by the learned chancellor Fortescue:— “ *et revera, non minime erit regno accommodum, ut incolæ ejus in armis sint experti.*” — “ *Indeed it will be of no small advantage to the kingdom,*

"kingdom, that the inhabitants be EX-
 "PERT IN ARMS." (De Laudibus
 Legum Angliæ, c. xlv. p. 106.) And,
 in the notes and remarks on this book,
 by the learned Mr. Justice Aland, we
 find the following observations to the same
 purpose. 'In the Confessor's laws'
 (says he) 'it is,' "DEBENT* UNIVERSI
 "LIBERI HOMINES, &c. ARMA HABE-
 "RE, ET ILLA SEMPER PROMPTA
 "CONSERVARE AD TUITIONEM REG-
 "NI," &c. "See" (says he) "*the laws*
 "*of the Conqueror* TO THE SAME PUR-
 "POSE. *The custom of the nation*" (con-
 tinues this learned judge) "*has been, TO*
 "TRAIN UP THE FREEHOLDERS TO
 "DISCIPLINE; v. 13 and 14. C. ii. c. iii.
 "and ib. § 20. and title, WAR, *in the*
 "*table to the statutes.*"

C 2

Among

"*All freemen ought*" (*debent, it is their duty*)
 "TO HAVE ARMS, and to keep them always ready for
 "*the defence of the kingdom,*" &c.

Among the ancient constitutions, or ordinances, of the kingdom, recorded in the Myrror of Justices, chap. i. § 3. we read that it was ordained, “ that every
 “ one, of the age of 14 years and above,
 “ *should prepare him*” (*se apprestat*) “ to
 “ *kill mortal offenders in their notorious*
 “ *crimes, or to follow them from town to*
 “ *town with hue and cry.*” &c.

The true purpose and advantage of having *all the inhabitants* of this kingdom trained to arms is farther manifested in our old law books and statutes; as in the Westminster Primer, cap. xvii. on the case when any cattle are unlawfully taken and driven into any castle or strong hold, &c. — “ *Le Visc'. ou le Bailife prise ove*
 “ *luy POYAR DE SON COUNTIE, ou de sa*
 “ *Bail', et voile assaier de faire de ceo*
 “ *repl' des avers a celuy qui les aver prise,*”
 &c. “ That the sheriff or the bailiff
 “ shall take with him THE POWER OF
 “ HIS COUNTY, or of his bailiwick, and
 “ shall

“ shall endeavour to make replevin” (or recovery) “ of the cattle from him that bath taken them,” &c. And lord Coke remarks on this: — “ *Nota, EVERY MAN is bound by the Common-Law to assist not only the Sherife in his Office for the Execution of the King’s Writs, (which are the Commandments of the King,) ACCORDING TO LAW,* but also his Bailly,*

* “ *Commandment of the King, according to Law.*” Any commandment of the king, which falls not within this description, is *not binding or valid, in law*; for the king’s commands ought only to proceed, *by due process of the law*, through the king’s courts of justice, which are the only proper channels in which “ *the executive power*” of this limited monarchy can legally flow and be exerted; because it is one of the first principles of our constitution, “ *that the king can do nothing on earth, as he is the minister and vicar of God, but that only which he may do by the law.*” (“ *Nihil aliud potest rex in terris, cum sit Dei minister et vicarius, nisi id solum quod de jure potest.*” Bract. lib. iii. c. 9.) And this teaches us how to understand the trite maxim, that “ *the king can do no wrong* ;” i. e. he has no legal authority to do wrong; — “ *Potestas sua juris est, et non injuriæ.*” Bract. lib. iii. c. 9. He has not any peculiar prerogative, either to do wrong, or to decline from doing right and justice. “ *NON EST ULLA REGIS PREROGATIVA*

“ *GATIVA*

" *Baily, that hath the Sberiff's Warrant*
 " *in that Bebalfe, hath the same Authori-*
 " *ty,"* &c. (2 Inst. p. 193.)

The

" *GATIVA quæ ex iustitia et equitate quicquam derogat.*"
 Rot. Parl. 7 Hen. IV. num. 59. But, if any king of this
limited monarchy should, nevertheless, wilfully "do
 " *wrong,*" and presume to rule contrary to the laws
 and fundamental principles of the ancient constitution,
 he ceases to be " *the minister and vicar of God,*" and, in
 the eye of the law, immediately commences " *Minister*
 " *Diaboli.*"—" *Potestas enim juris solius est Dei, injuriæ*
 " *vero DIABOLI; et cujus opera fecerit, ejus et MI-*
 " *NISTER ERIT.*" (Fleta, lib. i. cap. 17. p. 17.) See
 also in Bracton, (lib. iii. cap. 9. p. 107.) who, after
 reciting the same doctrine, concerning the effect of good
 or bad measures, adds, " *Igitur dum facit*" (rex)
 " *JUSTITIAM, vicarius est REGIS ÆTERNI; minister*
 " *autem DIABOLI, dum declinet ad injuriam:*" and the
 consequence must be fatal, even to the temporal state of
 such an one, because all legal authority of the sovereign
 ceases, in this realm, if the king presumes to rule by
 " *will and pleasure,*" instead of law! " *for there is NO*
 " *KING, where WILL governs and NOT LAW.*" " *Non*
 " *est enim rex, ubi dominatur voluntas et non lex.*" (Bract.
 lib. i. c. 8.) The advisers, therefore, of illegal measures
 (or any measures that require an undue influence in parli-
 ament to make them pass) are so far from deserving the
 title of the " *king's friends,*" that they are really his most
 dangerous enemies: they are *traitors*, whose *disloyal*
 councils lead to certain destruction, as nothing but
 " *righteousness can establish the throne.*"

The attack of a castle or place of arms must require disciplined troops; and therefore it was certainly necessary that "EVERY MAN," *so bound by the common-law to assist, should be trained to arms, in order to fulfil his duty.* And the learned Nathaniel Bacon, in his historical Discourse of the Uniformity of the Government of England, (1st part, p. 64.) remarks, that "*the Strength consisted of the* Freemen; and, though many were bound by Tenure to follow their Lords to the Wars, and many were Voluntiers, yet, *it seems, ALL WERE BOUND UPON CALL, UNDER PERIL OF FINE, AND WERE BOUND TO KEEP ARMS, for the Preservation of the Kingdom, their Lords, and their own Persons; and these they might neither pawn nor sell, but leave them to descend to their Heirs,*" &c.

The common-law right of the people of England to have arms is also clearly expressed

pressed by the great and learned judge Bracton, one of the most ancient writers of our common-law, who is justly esteemed of unexceptionable authority. —

“ *ei qui justè possidet, licitum erit cum ar-*
 “ *mis contra pacem venientem ut expellat,*
 “ *cum armis repellere, ut per ARMA TU-*
 “ *ITIONIS ET PACIS, quæ sunt justitiæ,*
 “ *repellat injuriam et vim injustam, et ar-*
 “ *ma injuriæ,”* &c. (Bract. lib. iv. c. 4.)
 i. e. — “ to him who justly possesses it
 “ SHALL BE LAWFUL *with arms* to re-
 “ pel him who cometh to expel, with
 “ arms against the peace, that, by
 “ ARMS OF DEFENCE AND PEACE,
 “ which are of justice, he may repel injury
 “ and unjust violence, and arms of injus-
 “ tice,” &c. *who will but attend*

The late unhappy tumults prove, that these principles of the English constitution are as necessary to be enforced at present as ever they were; for, had they not been fatally neglected and disused, the
 abandoned

abandoned rioters would have been quelled and secured by the neighbouring inhabitants of Westminster, &c. in *their first attempts*; or, in case they had advanced towards the city, if *the proper barriers had been reserved*, the citizens would have had time to get under arms, to support their own magistrates in securing the peace of the city; for any attack upon the gates or posterns would have justified an immediate discharge of fire-arms, or other weapons, against the assailants, without waiting for the command of a peace-officer: and, as the inhabitants of each city and county are required to make good the damages sustained on such occasions by private individuals, it is plain that the *inhabitants themselves*, in their collective capacity, do form that proper power, from which the law requires the *prevention* of such damages, and the support and defence of the civil magistrates: for, otherwise, the law ought to

D

have

have directed the damages to be deducted from the last preceding parliamentary grants to the *army*.

If it be alledged that there can be no occasion, in these modern times, to arm and train the inhabitants of England, because there is an ample military force, or *standing army*, to preserve the peace; yet let it be remembered, that, the greater and more powerful *the standing army is*, so much more necessary is it that there *should be a proper balance to that power*, to prevent any ill effects from it: though there is one bad effect, which *the balance* (howsoever perfect and excellent) cannot prevent; and that is *the enormous and ruinous expence of maintaining a large number of men, without any civil employment for their support*; an expence, which neither the *land nor trade* of this realm can possibly bear much longer, without public failure!

No

No Englishman, therefore, can be truly LOYAL; who opposes these essential principles of the English LAW,* whereby the people are required to have “*arms of defence and peace*,” for mutual as well as private defence; for a *standing army of regular soldiers is entirely repugnant to the constitution of England, and the genius of its inhabitants.*†

D 2

Standing

* One of the articles against cardinal Wolsey, 21 Hen. VIII. was, for that he did endeavour to subvert “*antiquissimas leges hujus regni, universumque hoc regnum Angliæ legibus imperialibus subjugare.*” “Tis fit that those who attempt to subvert the laws should, according to the old writ, be carried *ad goalam de Newgate.*” “*Merito beneficium legis amittit, qui legem ipsam subvertere intendit.*” Mr. Justice Aland’s Notes on Fortescue de Laudibus Legum Ang. p. 75.

† No English king before Charles II. had any other guards than his pensioners, and yeomen of the guard, (first appointed by that great oppressor of his people Henry VII.) save Richard II. who with the aid of 4000 profligate archers made himself absolute. ‘The usurper,’ (Cromwell,) ‘it is notorious, kept up an army in support of himself and his tyranny,’ “and Charles II. being connived at in keeping a few (additional) guards, he insensibly increased their number,

Standing armies were not unknown, indeed, to our ancestors in very early times;

“ber, till he left a body of men to his successor great enough to tell the parliament he would be no longer bound by the laws he had sworn to.” In the year 1697, immediately after the conclusion of the war with France, it is well known how far the soldiery, against king William’s inclination and earnest endeavours, were reduced. On behalf of the court it was then declared that “the army was not designed to be made a part of our constitution, but to be kept only for a little time, till the circumstances of Europe would better permit us to be without them.” “To which it was answered, and reasons given to prove, that “these conspirators against their country were satisfied that their continuance then was an establishment of them for ever.” “And it was farther observed, that “the very discontents they might create would be made an argument for the continuing of them: but if they should be kept from oppressing the people, in a little time they would grow habitual to us, and almost become a part of our constitution, and by degrees we should be brought to believe them not only *not dangerous*, but *necessary*; for every body saw, but few understood, and those few would never be able to persuade the multitude that there was any danger in those men they had lived quietly with for some years.” “And moreover that “without dear bought experience any body may know before hand what will be the natural consequences of a *standing army*. “From the day you set them up you set up your masters; you put yourselves wholly into their hands, and are at their discretion. It is *the conquest* of the nation

times, but they were happily opposed by them, and declared *illegal*. A remarkable instance of this is related by Sir Edward Coke, in his 7th rep. p. 443. (Calvin's case,) but with a very *erroneous* application of the doctrine, (as there are in many other instances of that particular report,) for which the chancellor or judges, probably, who spoke, and not the reportery, must one day be answerable.

"It appeareth, by Bracton, lib. iii. tract
 "2. c. 15. fol. 134. that Canutus, the
 "Danish king, having settled himself in
 "this kingdom in peace, kept notwith-
 "standing (for the better continuance
 "thereof) great armies within this
 "realm." [Yet Bracton was more wise
 and honourable than to conceive or hint
 that

"nation in the silentest, shortest, and surest way.
 "They are able to dispose of your lives and estates at
 "will and pleasure; and what can a foreign conque-
 "ror do more? If after this we live and possess any
 "thing, it is because they let us; and how long that
 "shall be neither we nor they themselves know."—*Continued Corruption, standing Armies, &c. considered, 1763,*
 p. 15-17.

that great armies, so kept by the king, were proper instruments “for the better continuance of peace;” for he says no such thing, this being only a disloyal conceit of some modern judge, concerned in the argument of Calvin’s case: but to return to the words of the reporter.]

“The peers and nobles of England disaffecting THIS GOVERNMENT, BY ARMES AND ARMIES,* (ODIMUS ACCIPTREM, QUIA SEMPER VIVIT IN ARMIS,) wisely and politiquely persuaded the king, that they would provide for the safety of him and his people, and yet his armies, carrying with them many inconveniences, should be withdrawn,” &c. (This would be a proper language and true

* And every Englishman, that has not the same disaffection, is surely disaffected to the true constitution and laws of his country, and may justly be charged with disloyalty; for none but freemen ought to be trusted with arms in a free country, and not men that are enslaved under martial law, in regular armies, to yield an implicit active obedience to the word of command, whatever it may be, without distinction of good or evil!

true policy for a free British parliament to adopt.) “*Hereupon*” (says the reporter)
 “*Canutus presently withdrew his armies,*
 “*and within a while after he lost his*
 “*crown,*” &c.

Here again the judge, whoever he was that spoke, betrayed a most *disloyal* prejudice in favour of “*a government by arms*” and *armies*,” which led him into a notorious falsehood! for, though the former part of the sentence is true, that king Canute “*withdrew his armies,*” yet the latter part, that, “*within a while after,*” “*he lost his crown,*” is totally *false*; and the judge, by asserting that *groundless* circumstance, seemed inclined to insinuate, that *the withdrawing the armies* occasioned the (supposed) *loss of the crown*, which was far from being the case. The great and noble Canute reaped the benefit of his prudent and generous conformity to the free constitution of this *limited monarchy*; for he enjoyed a long and glorious reign, *after* he sent back his Danish soldiers;

soldiers; which, according to Matthew of Westminster, (p. 403,) was in the year 1018; and he held the crown with dignity and glory to the end of his life, in the year 1035, when he was buried at Winchester with royal pomp (*regio more*, ib. p. 409): and his two sons also, who separately succeeded him, died likewise, *kings of England*; for they lost not the kingdom but by natural deaths, and the want of heirs.

Happy would it have been for England, had all succeeding kings been as wise and truly politic as the great Canute, who feared not to commit the care of his own person, and those of his foreign friends that attended him, to the free laws and limited constitution of this kingdom.

The old English maxim, however, against "a government by arms and armies," ought never to be forgotten. — "*Odimus accipitrem, quia semper vivit in armis.*"

(June, 1780.)



A
GENERAL MILITIA,
ACTING BY A
WELL-REGULATED
ROTATION,
IS THE ONLY SAFE MEANS OF
Defending a free People.



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GENERAL MILITIA

OF THE
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IN THE
R. O. T. A. T. I. O. N.

Defending a free People

the national defence upon some other less

A dangerous plan.

The service of a national militia may

GENERAL MILITIA,

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keeping

IS THE ONLY SAFE MEANS OF

Defending a free People.

the assembling and continuance of a large

body of troops in actual service, to watch

THE establishment of standing

armies is, perhaps, the most dan-

gerous of all political expedients, and

has been fatal to the liberty of every na-

tion upon earth that has adopted it; and,

therefore, though the doctrine of necessity

is generally pleaded to excuse the mea-

sure, yet there seems rather a *necessity* of absolutely rejecting it; and of forming the national defence upon some other less dangerous plan.

The service of a *national militia* may be divided into equal proportions of attendance, *by rotation*, so as to inculcate and diffuse a sufficient knowledge of arms and military discipline throughout the whole body of a nation or people; and thereby supersede the baneful *necessity* of keeping *regular troops*, or *standing armies of mercenaries*.

Whenever the public safety demands the assembling and continuance of a large body of troops in actual service, to watch and resist the motions of any powerful invader, a regular military "*Roster of Service*," from the *whole national militia*, is the safest and best means of forming and continuing such an army in the field; because it would be, not only, the least burthensome to individuals, but
also

also less dangerous to the community at large; for, if the regularity of *rotation* were duly observed, no man would be so long detained from his ordinary calling and occupation as to lose his *civil capacity* and way of livelihood at home, nor be thereby unwarily drawn into a *separate interest* from his fellow-citizens; which was unhappily the case of the Parliament's army in 1647; for, after having bravely defended the *national liberty* for some years, this very army became the instrument of a most hateful national *bondage*, under a military tyrant!

The nature of a Roster is well described by General Bland, in his Treatise of military Discipline, from p. 287 to 312. When a great army is formed by several nations in alliance, which send into the field, each of them, a different number of battalions, a *Roster* is esteemed the best expedient for regulating and dividing the general service into due proportions
amongst

amongst them all: and General Bland has given, in p. 290 of the above-mentioned Treatise, the form of such "a
" Roster general for the detaching of bat-
" talions, according to that in Flanders, in
" 1708." He has also given "*Tables of*
" Proportion for detaching private men,"
 that is, for detaching them from the several battalions in the field, that the danger and fatigue of the service (especially at sieges) may be equally divided among them. And, nearly on the same plan, tables might be formed, for detaching the individuals of a national militia from the several parishes, or districts, to which they belong, in due proportion to the number of males enrolled in each of them; whereby the hardship and inconveniences of military duty for the common safety would be equally divided among the whole nation; and, of course, the time of actual service would be most profitably diminish-

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ed to each individual, whilst the knowledge of arms and discipline would be regularly *circulated* into all parts of the country; and with it also such a sensible perception, to each individual, of his fellowship, or incorporation, with the whole national community, as would plainly tend to prevent all partial and undue emulation of particular counties or districts against their neighbours: for, by such provincial jealousies, the ancient states of Greece were unhappily disunited, and their attention withdrawn from that true mutual interest and defence of each other, without which none of them could long subsist in freedom: whereas, if (on the contrary) they had been inured to the social duty of serving in one common army, drawn equally from each confederate state, by a proper "*Table of Proportion*," and duly changed by *rotation*, (to prevent them from becoming mere *soldiers*,) there would have been no just cause to

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be jealous of each other's power (as between the Athenians and Lacedæmonians, &c.) ; for all successes, as well as losses, would have been equally divided among them ; so that no particular state could have acquired, by victory, any enviable advantages, peculiar to itself, to incite the jealousy of the rest ; but every individual, in every part, would, by these means, have been led to consider himself, not merely as a member of a single petty state or district, but (with a more enlarged idea of his own social character) as a member, rather, of the whole community of free citizens throughout all Greece : for the circulation* of the

Roster

* A *Rotation*, or general circulation of public duty, may be compared to those "*wheels within wheels*," which give life, vigour, and activity, to a *whole community*, by enabling it (howsoever extensive and scattered, with respect to local *situation*) to move and exert itself as *one united living body*, actuated by *one spirit*, like as the hosts, or armies, of the commonwealth of Israel are typified by the Cherubim, or *four living creatures*, (as represented in the standards of the four principal

Roster would have been a most effectual bond of union to secure the connexion and communication of the most distant branches of the confederacy; and, by preserving the general body of the people in their *civil capacity* and *ordinary occupations*, it would also have rendered them less liable to be drawn from the common interest of the state at large, partially to favour the arbitrary designs of any usurping commander in chief or petty tyrant: for no general-officer (had such a confederacy of national union been

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principal tribes,) united in *one animated* system of action, moving altogether with wheels (or rotations) and wings, *full of eyes* within and without.

For, in a state that is perfectly free, (and in such only,) the eyes of the several individuals of which it is composed are permitted to look forward, with effect, to the true interests of the community at large; and may well be considered as the eyes, figuratively represented in the whole body of the Cherubim, and in all their parts; (their backs, and their hands, and their wings, and the wheels full of eyes round about;) every eye in that great united figurative body of the Cherubim helping to *enlighten the intention*, and thereby influence the motion or government of the whole.

duly established) would have been able to assume more power and authority, than what was fairly delegated by the majority of suffrages, in one *great united general council* of chosen citizens from every part.

The general body of individuals, in such a case, indeed, submit themselves to serve, by rotation, in the humble station of private soldiers; but the time of service being limited, and *equal* to all men in duration, it would be no great hardship, especially if each freeman that bears arms was allowed his *natural right* of suffrage in the state, his due share of legislative influence, to controul the commanders, and regulate the service.

In a nation consisting of six millions of souls, (which number England is commonly said to contain,) the number of males capable of bearing arms (and who, according to *natural right*, are justly entitled also to a share in the legislature) would

would be estimated at a fourth part of that number, according to the most general mode of estimation, viz. 1,500,000 men; from which number a *Roster of actual service from home*, only for one month each man in the space of a whole year, would supply a constant army in the field of 125,000 men, if so many were necessary. A continual change *every month*, or *every fourteen days*, of half a battallion at a time out of each district, or still in smaller proportions, viz. a few companies at a time (or even by half-companies, from smaller divisions or parishes) would be most adviseable, that every part of the country might always retain nearly the proportion of eleven parts out of twelve of its own militia, as well for the purposes of guarding it, as to carry on the ordinary cultivation, and other necessary local occupations, without interruption. Persons above the common rank might serve in 'squadrons' of horse, (if they preferred

that kind of service,) as *equites*, or *esquires*. Those men whose time of service approached, as being next upon the established *Roster*, should be more carefully exercised *at home*, *after the hours of labour*, for one month at least before their time of marching. By these means they would be prepared for the service; and the very march, if properly conducted, would add to their discipline. The certainty of returning, when relieved by companies of their neighbours, in so short a time as *one month*, (if they lived so long,) or two months, allowing for the march out and home, would much reduce the anxiety of parting from their families and friends.

It will probably be objected, that a national militia, which has been exercised only in small bodies, is incapable of effectual service against an enemy: but for this a remedy may be found. Let the army be first formed in a separate encampment,

campment, at such convenient distance from the enemy, that they may not be liable to an immediate attack.

A central situation must, of course, be chosen for this camp of discipline, where the several companies from the whole nation may be regimented under proper general-officers, and be daily exercised, in *large bodies*, for a whole month (or six weeks, if necessary) before they are brought to face the enemy. And, for this reason, it would be expedient to require from each individual (I mean the first time he is entered on the *Roster*) one month or six weeks attendance, *more* than the generally established proportion of time on the *Roster*, (which would be only once in his whole life-time, and therefore no great hardship,) in order to be exercised with a large body of troops in some of the principal and most necessary movements and evolutions for the field; and, after the month or six weeks training in the camp of discipline,

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an army of 125,000 men might be marched to the camp or camps of actual service, to do duty for the time allotted to each upon the *Roster* against the common enemy; and the number might be continually kept up by monthly detachments of battalions from the first camp of discipline, in proportion as the time of service (allotted to each of the former companies upon the *Roster*) should expire. The country would also be guarded by the returning disciplined companies dispersed in every part; and the knowledge of arms and discipline, by the time a *single circulation* of the *Roster* was completed, (*viz.* in one year,) would be diffused throughout the *whole nation*; which would thereby be enabled afterwards to exert itself gloriously upon any sudden emergency; for it might afford to bear even the loss of six such capital armies of 125,000, *viz.* in all, 750,000, men, before it would be necessary to increase the time of service from one month

to

to two months actual service, for each disciplined man, in a whole year. With so small a portion of time employed in military service, every man might preserve his ordinary occupation, either in trade or husbandry, and maintain his rank and situation in life with his family, as a *free citizen, in his own district*, at all other times, when the *Roster* of public service did not demand his personal attendance from home. But when, by a contrary method, a national militia is so long continued in actual service, without *rotation*, as to inure the individuals to a neglect and disuse of their ordinary employments, in their respective counties and districts, they gradually lose their *civil capacity*, and, from *free citizens*, are apt to become *mere Sold-iers*, dependent on their military *Sold*, or stipend, and the favour of superiors; where-by they acquire such a slavish submission to *COMMAND*, be it *just* or *unjust*, that they

they readily undertake to execute those very measures and designs, which they themselves, perhaps, have previously condemned; alledging, that “ *a soldier has no right to judge for himself,*” (thus indiscriminately applying, to the general propriety or impropriety of any military undertaking, a principle, which properly relates only to the necessary discipline and mode of conducting it in the field, after a man has absolutely consented and engaged to serve in it,) “ *and that a soldier must go*” (say they) “ *wherever he is ordered, without any demur about the propriety or injustice of the service.*” So that they establish not only a *passive*, but an *active*, obedience to the will of others, which makes the profession *dishonourable!* — *dishonourable*, I mean, in those who admit this doctrine of *unlimited obedience*, which is derogatory to their *natural dignity, as men*; for they give up an indispensable quality of *human nature*,
the

the right of discerning between *good* and *evil*, (which is nothing less than a desertion, or apostatizing, from the duty which *every man* owes to God and his eternal laws!) and thereby render themselves and their profession the bane of every state where they are established, and a disgrace to *human nature*!



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the right of the year, between good and
evil (which is nothing less than a
tion, or separation, between the good and
evil, and to the good and the evil
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R E M A R K S

CONCERNING THE

Trained Bands

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R E M A R K S

CONCERNING THE

Trained Bands

L O N D O N.

THE Militia, or Trained Bands, of London have never been known to misbehave in *actual service*, however despicable they may appear in their annual musters.

Citizens of London, from the most ancient times, were required to keep arms in their houses. The annual muster is rather a *muster of the arms* than of *the men*, who would probably go out to *actual*

actual service, if there should be really occasion for them; but even the meanest of *the men*, as they now are generally sent out, (being for the most part substitutes,) if they were exercised for a few hours three times a week, only for one month, and restrained from the use of strong liquors during the time of exercise, would be found more serviceable (if there was any real occasion of public defence) than is generally conceived.

Of this real facts afford the best proof: the irregularity of the Trained Bands and want of discipline were as conspicuous and notorious, it seems, in the year 1642, as at present: for, when Capt. Skippon (afterwards Major-General) was directed by the parliament to attend them, as a guard, with two companies of the *Trained Bands* of London, Lord Clarendon's account of that matter is expressed in the following contemptuous terms; "*This man*" (says he, meaning Skippon) " *marched*"

" *marched that day in the head of their*

" *TUMULTUARY ARMY to the parlia-
ment-house.*"* Yet Lord Clarendon

himself makes ample reparation to the *Trained Bands* for this contempt, when he speaks of their *unexpected* behaviour at the battle of Newbery; for, though he allows their *inexperience both of danger and service*, he expressly attributes to the *steadiness* of the *Trained Bands* the preservation of the parliament's army. No troops in the kingdom had at that time been able to withstand the spirited charges of Prince Rupert's well-disciplined horse, till this *tumultuary army*, (which seems to be an exact description also of their present musters,) for the first time, compelled them to wheel about.

Rapin speaks of the brave defence of the *infantry* on that day in very high terms, but without mentioning what particular troops they were; so that no reader would suspect that he described the
actions

* Bk iv. p. 389.

actions of the "*tumultuary army*" of the city.

" After the Prince had routed *the cavalry* of the enemy," (says Rapin, meaning the *parliament's cavalry*,) " he fell upon their *infantry*, which, though deprived of the help of the cavalry, received him with so much *intrepidity*, that he was *repulsed* several times, without being able ever to penetrate."* But Lord Clarendon candidly attributes the glory of the day to those whom he before despised as a *tumultuary army*.

" *The London Trained Bands*" (says he) " and auxiliary regiments (of whose *IN- EXPERIENCE of DANGER, or ANY KIND OF SERVICE, beyond the easy practice of their postures in the Artillery-garden, men had till then TOO*

" *CHEAP*

* " Après avoir mis en deroute la Cavalerie des ennemis, il alla tomber sur leur Infanterie, qui, bien que dénuée du secours de la Cavalerie, le reçut avec tant d'*intrépidité*, qu'il fut repoussé plusieurs fois, sans qu'il pût jamais la percer." Rapin, tom. viii. p. 426.

" CHEAP AN ESTIMATION) behaved
 " themselves to wonder; and were, in
 " truth, the preservation of that army that
 " day. For they stood as a BULWARK
 " AND RAMPIRE TO DEFEND THE
 " REST;" (whereby he attributes to
 them the chief resistance;) " and, when
 " their wings of horse were scattered and
 " dispersed, kept their ground SO STEA-
 " DILY, that, though Prince Rupert him-
 " self led up THE CHOICE HORSE to charge
 " them, and endured their storm of small
 " shot, he could make no impression upon
 " their stand of pikes, BUT WAS FORCED
 " TO WHEEL ABOUT: of so sovereign be-
 " nefit and use is that readiness, order, and
 " dexterity, in the use of their arms, which
 " hath been so much neglected." Bk. VII.
 P. 347.

Thus the *City Pike-men* are commend-
 ed as a standard pattern of military disci-
 pline, (viz. for their " readiness, order,
 " and dexterity, in the use of arms,") by

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the very same historian who had entitled them a *tumultuary army* a very short time before this occasion which extorted his commendation. A moderate and sufficient discipline, for real service, is more easily and sooner acquired than people generally conceive; and nothing is wanting to the present establishment of City Trained Bands but more frequent musters, for about an hour or an hour and a half at a time, *after the hours of labour*: for, if they were allowed this advantage, they would be nearly upon the same footing as the Militia of New England, Connecticut, &c. which lately conquered the well-disciplined army of General Burgoyne: they would be nearly upon the *same footing*, I say, except in one point; which is, that the *New England Militia* have always maintained the ancient constitutional right of choosing their own officers in the public *Folk-motes*: which the learned Judge Atkins, by the best authorities,

rities, has proved to be the original constitution of our national Militia. Polit. Tracts, p. 254.

The present establishment of the *county regiments of Militia* favours too much of a *standing army*, both in *discipline*, and the *effect* of the service upon the *common men*; who, by being absent too long a time from their families and ordinary occupations, are apt to become *mere soldiers*, despising their former trades and employments, and consequently *ceasing to be citizens*.

Nothing, surely, can be more dangerous to a free state than such an *effect* as this; for the *professed soldier* generally gives up to superior COMMAND* that indis-

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pensible

* *Command* is properly *imperium*, the essence of *empire*; for, the title of *imperator* (or *emperor*) originally signified nothing more than *the commander in chief of the army*: and, though this power of *command* was generally delegated, at first, by the election and appointment of the people, or senate, and of course was esteemed subject to their controul, yet, by the usurpations of successful

penfible human right of judging between
good and evil, which alone constitutes
 the

cefsful military chiefs, (when the forces under their command have been detained fo long in actual fervice as to lofe their *civil capacity* and become a *ftanding army* of mere *fold-iers* dependent on their *fold*, or military pay, inftead of their former *civil* connections and ufeul occupations,) it has always been liable to be changed from a *limited command* to "*merum imperium*," or *abfo- lute dominion*, which Leopold Metafafius, a learned Roman Advocate, very properly ftiles "*belluina potestas*," a *beaftly power*; a term which moft aptly characterizes the *enormity*, and confequent *illegality*, of *unlimited mo- narchy*! And this ufe of the term, *belluina potestas*, is ftictly *legal* and *juftifiable*; becaufe it is the *very mark* by which the prophets of God have branded all the ar- bitrary dominations of mankind, from the Babylo- nian head of the great and terrible image of Tyranny down to its *very toes*, the prefent divided kingdoms of the earth, which ftill exift in power, (and muft fo con- tinue for fome little time longer,) for the punifhment and deffruftion of depraved man, until it fhall pleafe God, in his mercy, to break them in pieces by *his eter- nal kingdom*, which will then *become a mountain*, (or earthly eftablifhment of government,) and *fill the whole earth*, (Dan. ii. 35. 44.) For all the faid temporal em- pires and kingdoms are included in the prophetic repre- fentation of *four great and terrible beafts*; (fee Dan. vii.) fo that the *belluina potestas* is undeniably attributed to *all of them*; and, that we may more clearly demonfftrate that the term denotes a power, unlimited by law and due popular controul, it is neceffary to remark, that the

the distinction between *men* and *brutes*;
and, through a false notion of military
honour,

the characteristical property of each of these *beastly* empires is, "*to do according to his WILL*;" that is, without limitation of *law*, *right*, or other *just controul* in favour of the people: such *unlimited WILL* is called "*absolute*;" i.e. "*loosed from*" all due restraint of the people, or other *obligation* whatsoever. This *bestial* mark of *absolute will* was the characteristical property of the *first beast*, the Babylonian head or *winged lion* of the Chaldees; "*whom he would*" (עָבַד, the proper Chaldee word for *WILL*, both verb and noun) "*he slew*," "*and whom he would*" (עָבַד) "*he kept alive*, and "*whom he would*" (עָבַד again) "*he set up*, and *whom he would*" (עָבַד once more) "*he put down*;" (Dan. y. 19. So that the *will* of the monarch was manifestly the *only law* of that empire; and the unhappy effects of such *unlimited power*, even to the *monarch himself*, is strongly marked in the very next verse; "*But, when his heart was lifted up*," (the natural consequence of such undue exaltation*,) "*and his mind*"

"*hardened*"

* An excellent antidote against the evil of *royal will*, or "*undue exaltation*," is prescribed in Deut. xvii. 18-20. viz. That the king shall "*write out for himself a copy*" (or rather a duplicate, מִשְׁנֵה) "*of this law*" [i.e. those written laws of God which had twice been solemnly read, not only in the presence, but "*in the ears*, (or hearing,) "*of ALL the people*;" and had as often been solemnly confirmed, at each public reading, by the voluntary assent of *all the people*, saying, — "*all that the Lord hath said will we do*." Exodus xxiv. 3. 7. Thus the divine laws became the regular *statutes* of that nation]; "*And it*" (viz. the king's own written duplicate of the law) "*shall*"

"*be*"

honour, the soldier is apt to think that his duty requires an *implicit active obedience*

"hardened in PRIDE, he was deposed from his kingly throne, and they took his glory from him: and he was driven

"be with him, and he shall read therein, all the days of his life: that he may learn to fear the Lord his God, TO KEEP ALL THE WORDS OF THIS LAW, AND THESE STATUTES, TO DO THEM" (and the reason of thus limiting the ROYAL WILL, by laws and statutes, is assigned in the very next sentence); "that HIS HEART BE NOT LIFTED UP ABOVE HIS BRETHREN, and that he turn not aside from the commandment (to) the right hand or (to) the left;" (which is surely a strict limitation of the regal power; a measure highly important to the true interest even of the monarch himself: viz.) "to the end that he may prolong (his) days in his kingdom, he and his children, in the midst of Israel." And in like manner the kings of all Christian nations should be limited by the same statutes, excepting only those statutes which were merely ceremonial or temporary. And they should be still farther limited by the more perfect statutes of the Christian revelation, without being allowed the least power of WILL, or prerogative, to "turn aside from the commandment to the right hand or to the left;" that the declared purposes of the Gospel in behalf of man (viz. "on earth PEACE, good will towards men") may be effectually established; and that the WILL of our heavenly Father (which is always righteousness and peace) may "be done on earth as it is in heaven;" for that is the true effect of the approaching kingdom of God on earth, which all Christians are taught to promote by their daily prayers. But the princes of the world (under the influence of our spiritual enemy, the dragon, which hath given his power to the beast) do openly oppose the effectual establishment of God's kingdom on earth, by impiously claiming to themselves a royal prerogative to make war or peace without the advice and assent of the people, or congregation; which is manifestly to "LIFT UP THEIR HEARTS ABOVE THEIR BRETHREN," and of course "the earth is" (once more) "filled with violence," (see p. 7.) whereby the royal promoters of it are rendered dreadfully obnoxious to the vengeance and

ence on all occasions; whereby the
standing armies of all nations are con-
stantly

"*even from the sons of men, and his heart was made like*
"*the BEASTS,*" (a notable instance of God's vengeance
against the *belluina potestas* of royal will and pleasure,) "*and his dwelling was with the WILD ASSES,*" &c.
(Dan. v. 19, 20, &c.) By this very example did the
holy prophet reprove a wicked and unbridled descendant
of the same monarch, just before the total dissolution
of his empire, as he had also previously warned the
royal ancestor himself, to "*break off his sins by RIGH-*
"*TEOUSNESS,*" &c. which would have effectually
restored *due limitations* to his government, and destroyed
the baneful "*belluina potestas*" which occasioned the
warning;

and retribution of the Almighty, when his approaching kingdom shall come
"*to destroy the destroyers of the earth:*" — διαφθεράς, τας διαφθε-
γορας, τας γης. Rev. xi. 18. — But, if kings would be contented to
govern with *legal* authority, (i. e. authority *duly limited* by the uninflu-
enced representation of each nation, or people, *freely* and *equally* elected
for every session of each national council,) and would, after the example
of king Canute, magnanimously rely (under God) on their national
hosts of free armed citizens, (instead of *standing armies,*) for the security
of their crowns, they would stand clear of the heavy judgements de-
nounced against *the body of the beast*, and would have no cause to fear
the approaching kingdom of God, nor the irresistible stroke by which it
will break in pieces the whole image of tyranny, and "*cut off all the horns*"
(or crowns) "*of the wicked*" (Psa. lxxv. 6, and lxxvi. 12): for *legal*
kings are effectually secured by the scripture promises in favour of
RIGHTEOUSNESS;—viz. that "*the horns*" (or rather crowns) "*of THE*
"*RIGHTEOUS shall be exalted*" (Psa. lxxv. 6): so that they may truly
hope to reign with the just, when "*the kingdom and dominion, and the*
"*greatness of the kingdom UNDER THE WHOLE HEAVEN, shall be gi-*
"*ven to the people of the saints of the Most High,*" &c. Dan. vii. 27.

stantly and regularly the tools of despotism, and the bane of all good and limited government.

A

warning; but the counsel was neglected, and, of course, the monarch was humbled, and his empire ruined! for then were the *wings of the BEAST* of Babylon plucked, and his dominion taken away. (Dan. vii. 4.)

Absolute will was also the essential property of the succeeding empire, or the *second beast*; viz. the Medo-Persian monarchy, described elsewhere under the figure of an impetuous *ram*, which pushed westward, and northward, and southward, "so that no BEASTS might stand before him, neither (was there any) that could deliver out of his hand; but" (the prophet now adds the principal *bestial*, or *brutal*, mark) "HE DID ACCORDING TO HIS WILL, and became great." (Dan. viii. 4.) For, after the Persian monarchs had once acquired the baneful "*beliuna potestas*," by the establishment of *standing armies* in every province, even the once-boasted *laws of the Medes and Persians* became as vague and uncertain as the *royal will and pleasure* to which they were, of course, subjected, howsoever *unchangeable* they might have been reputed in the commencement of that empire.

Neither was the *third beast* (the cruel *four-headed flying leopard* of the Grecian empire) without the same characteristical mark of *absolute will*, though it is not expressly annexed to Daniel's description of that compound of Tyranny in his seventh chapter; but, in the farther description of the Grecian empire, (chap. xi. § 3.) the same *wilful or unlimited* dominion is clearly foretold;

A national militia, therefore, ought
to be constituted upon principles as op-
posite

I

foretold; “ *A mighty king shall stand up, that shall rule
“ with great dominion,*” (and then follows the mark of
the beast,) “ *and shall do according to his WILL.*”

The king, mentioned in the 36th verse, that “ *shall
“ do according to his WILL, and exalt himself, and magnify
“ himself above every God,*” is generally understood to
denote the fourth and last beast, or empire, which still ex-
ists; being that most noxious and tremendous beast with
iron teeth, (described in Dan. vii. 21.) “ *which devour-
“ ed, brake in pieces, and stamped the residue under his
“ feet;*” i. e. in the most violent and beastlike manner,
which is plainly to “ *do according to his WILL!*” We
see then how aptly unlimited command, or *merum impe-
rium*, is expressed by the term, “ *belluina potestas.*”

The unlimited will of a king is so great an abomina-
tion in the eye of the *English Common-law*, that the ex-
ercise of it in this country is declared to be an effectual
disqualification or abasement from the regal dignity,
“ *for there is NO KING, where WILL governs, and not
“ law.*”—“ *Non est enim rex, ubi dominatur VOLUNTAS,
“ et non lex.*” (Bract. lib. i. c. 8.)

A king of England ceases to be king, when he ceases
to be limited by the LAW; for it is a rule of the com-
mon-law, that “ *a king can do nothing*” (i. e. by virtue
of his office) “ *on earth, while he is the minister and vicar
“ of God, except that alone which BY LAW he may.*”—
“ *Nil enim potest rex in terris,*” &c. “ *nisi id solum quod
“ de JURE potest,*” &c. (See the note in pages 21
and 22.) And, therefore, when the law is suspend-
ed,

posite to those of *standing armies* as possible; and no rules or arrangements
whatever,

ed, or set aside, (which is the highest and most baneful *injustice*,) the king's power ceases to be "*de jure*," for, in the eye of the law, he is esteemed "*Minister dei*" "*aboli, dum declinet ad injuriam*;" so that he and his ministers reduce themselves thereby to the common level of all other bad men; and whatsoever power, or force, in that case they may be able to exert, has no better foundation than the temporary power of banditti, which may be lawfully and conscientiously resisted by all men.

A king of England, therefore, though he is *supreme*, (or *sovereign*,) in personal dignity and rank, yet he is *not so* in will and power; because, in these, the law (to avoid the *belluina potestas* of *absolute monarchy*) requires that he should be duly *limited* by the people: a necessary distinction this, respecting *supremacy*, of which the unfortunate K. Cha. I. seems not to have been aware, or he would not, with his dying breath, have denied the people's right to a *share in the government*; saying,—"*It is not for having share in government, sir; that is nothing pertaining to them; a subject and a SOVEREIGN are clear different things*," &c.—and so they certainly are, with respect to *personal dignity*, or *rank*, when compared as *individuals*; and yet the *sovereignty*, or *supreme power*, belongs of right to the people, i. e. to the majority of them, or to the majority of their duly elected representatives. "*And therefore*," (we may say with that learned casuist, Bp Taylor, in his *Ductor Dubitantium*, lib. iii. c. iii. rule 1, p. 522.) "*it is but a*
" *weak*

whatever, that may tend to detach men
from their ordinary callings and employ-
I 2 ments,

"weak and useless distinction when we speak of kings and
princes, (by them meaning the SUPREME POWER,) to
say that some are ABSOLUTE, some are LIMITED in their
power." — That is, the distinction is weak and useless
only when we mean to speak of the *supreme power*: this
is clearly the bishop's meaning, as the following con-
text will shew; for otherwise the distinction to be made
between *absolute* and *limited* "kings and princes" is so far
from being *weak* and *useless*, that it is the necessary and
proper criterion between the *illegal* and *legal* dominion of
kings; the *limited* alone being *legal* in this kingdom. "For
(the bishop adds) it is true that some princes are so" (i. e.
are LIMITED in their power); "but then" (says he) they
are NOT the SUPREME power." (This is directly to the
point in question; and he adds a farther illustration of it:)
"It is a contradiction (says he) to say that the SUPREME
POWER is limited or restrained; for that which RE-
STRAINS it is SUPERIOR to it, and therefore the other
is NOT SUPREME." That a king ought not to have
the *supreme power* is clearly laid down by the best writ-
ters on the English *Common Law*; and particularly by
Judge Bracton, one of the most ancient as well as the
most respectable authorities. "*Rex sub Deo et Lege.*
"*Rex habet SUPERIOREM, Deum, (scilicet,) item LE-*
"*GEM, per quam factus est rex; item CURIAM SUAM,*
"*viz. comes, barones,*" &c. Bract. lib. 2. c. xvi. p. 34.
"*Lex frænum est potentie,*" &c.

That such a power of RESTRAINT is vested in the
LAW, as well as in the LEGISLATORS of this limited
monarchy,

ments, as *free citizens*, ought, on any account, to be admitted.

The

monarchy, is clearly proved by Mr. Acherley in his book on free parliaments. He argues from the words of the *original writs of summons to parliament*, — that the *determining or decisive power*, demanded by the said writs, (*ad faciendum ea*, i. e. the insuperable and urgent businesses for which the parliament is called,) is *derived from the people*, and is *independent*; and his inference is good; and he gives a remarkable instance of this *independent power in the people*; which is their answer to the pope respecting the banishment of Adomar, Bp of Winchester, in 1258. Ann 43. Hen. 3. Viz. “ Si dominus
“ rex et regni majores hoc vellent, COMMUNITAS tamen
“ ipsius (Adomar) ingressum in Angliam jam nullatenus
“ sustineret.” “ That, if the king and lords would do
“ this thing, (meaning, if they would revoke the banish-
“ ment) yet the commons WOULD NOT SUFFER or bear
“ Adomar’s residence in England.” “ And the commons
“ caused their speaker, Petrus de Montford, ‘ vice totius
“ communitatis,’ to sign, and he did sign, this answer.”
P. 9.

From this example, therefore, as well as from a great multitude of other instances of the power of the *English commons*, it is manifest that there is *no supreme power* in England without the concurrence and assent of the *people*: not a *general assent*, once for all, to throw the *supremacy* into other hands, but an *especial assent* for every new circumstance that may be liable to affect their interest. For which cause, also, parliaments ought (indispensably) to be newly elected *every session*, according to
ancient

The City-Militia, even upon its present establishment, was always respectable, when *real service* was wanted.

ancient usage, i. e. "*every year once, and more often if need be*"; and that in as *equal* a proportion of *representation* as possible; because, the more *equitable* in this point it is made, the more conducive it will surely be to the happiness and true permanent interest both of king and people.

But if, on the contrary, by the modern *innovations* of *triennial* and *septennial* elections, reduction of the right of voting, venality of almost depopulated boroughs, &c. the *supreme power* should be gradually corrupted, it must become a *supreme evil* to the destruction of *good government* and *peace*! for, in such a corrupted state, nothing can thrive under it but *standing armies*, and that which always regularly attends their establishment throughout all the branches of the fourth, or Roman, tyranny, I mean the *belluina potestas* of imperial will and command, against which the vengeance of the Almighty is clearly denounced; so that those persons, who yield themselves instruments to promote either the one or the other, are guilty of the grossest impiety! A free militia, therefore, is the only just and legal means of internal national defence.



HINTS



H I N T S

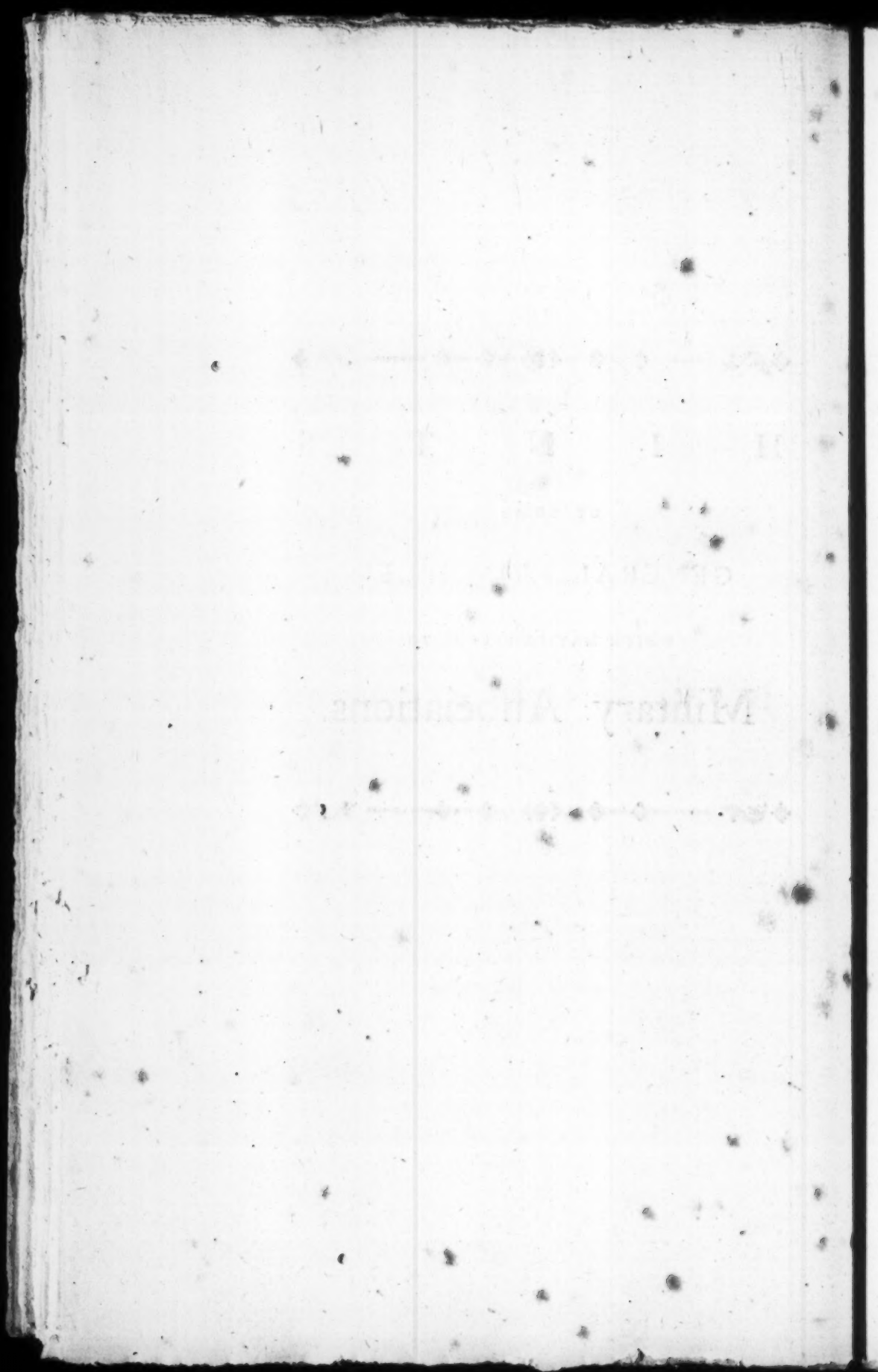
OF SOME

GENERAL PRINCIPLES,

WHICH MAY BE USEFUL TO

Military Affociations.





H I N T S

OF SOME

GENERAL PRINCIPLES,

WHICH MAY BE USEFUL TO

Military Associations.

AS the sole purpose of *Military Associations* is to support the *Civil Magistrate*, and to join "the power of the *countie*," when legally summoned by sheriffs, &c. for common defence, it is necessary that each associated company be formed, upon principles as opposite to those of *standing armies* (valour and good discipline excepted) as can possibly be deviled.

K

The

The *freedom* and *equal* natural rights of individuals, and the preservation of their *civil capacity*, must therefore be considered as objects of the utmost importance and consideration; in order to which *the freedom of election* in the appointment of *officers*, and a *frequent renewal of choice* therein, are absolutely necessary to be maintained.

Let the whole corps of Associators in every neighbourhood, or *vicinage*, divide themselves into small bodies, of ten persons each, in their respective districts; and let each ten, or decennary, choose from among themselves a *tithing-man*, or serjeant, to superintend the discipline of the ten, and to receive and communicate to them all summonses from the Civil Magistrate, or orders from the *Committee of Association*, and to transact such other business as the nature of the *Association* may require: the power of the serjeants, nevertheless, to be subject to the controul

troul of a majority of the ten, who choose them respectively; and no other *military* officers should be appointed, except officers of *Platoons* for a single day; viz. when the corps is divided into Platoons for exercise (agreeable to the mode recommended by General Bland, p. 66): at which time each platoon ought to choose its own leader, whose power should cease with that day's exercise. An experienced person must, however, be chosen at a previous general meeting, to instruct and direct the corps in the general manœuvres and evolutions of the field, who should, from time to time, be appointed *Commanding officer of the day*. In times of actual service, the Lord-Mayor, or either of the sheriffs that are present, must be considered as the legal commander of the association.

As three decennaries, or serjeants guards, will be the proper complement for a *platoon*, so two platoons, or six decennaries,

(being sixty men,) will be a convenient number for a *company*, and ten such companies a sufficient number for a *battalion*, or ward division; as it will be equal to two townships or two county hundreds.

There should be, *within* each ward, several places appointed for drilling, or teaching *the common exercise* to *small parties*; and also one place, more spacious, for those that are become expert in handling their arms, to be taught *the platoon exercise*, to form themselves into companies, to march, wheel, &c. But, if a place cannot be found *within the ward*, sufficiently spacious for such a *general exercise* of the whole body, it is probable that two or three places may be found therein sufficient for the exercise of *single companies*, or at least of *single platoons*, which should be appropriated accordingly; and none of these places of exercise should be open to the inspection of strangers, as it must be irksome to gentlemen to be overlooked,

looked, before they have acquired some tolerable knowledge of the military discipline. One place of *general rendezvous* should likewise be appointed *within each ward*, for the neighbours to assemble in case of any sudden alarm.

To prevent the individuals of the Association from being injured in their *civil capacity*, care must be taken, that the times of *drilling and private exercise* be appointed both before and after the usual hours of labour; and that an option be given to the learners of attending either at the *morning or evening exercise*, as shall be most convenient to themselves, that no man may be induced to neglect or injure his ordinary calling or *occupation*, by which his *civil capacity* is maintained: and, for the same reason, the times of *public exercise in larger bodies* should not be more frequent than is absolutely necessary for acquiring a moderate and useful discipline, rather than a critical nicety in the military manœuvres;

manceuvres; which latter would take up more time than *men of business* can usually spare; and which must finally have the bad effect of tiring out many of the most useful members of society: and, therefore, it is not only necessary to restrain the *too great frequency* of such meetings, but also the *duration* of each meeting, that as little time may be lost to the individuals as possible; and that those who attend may not incur the necessity of *taking any refreshment whatsoever* while they are out *on exercise*, or in going or returning, which would otherwise occasion many inconveniences too obvious to be mentioned, besides an *unnecessary expence* to individuals, which ought certainly to be avoided in large *promiscuous* societies, because *all* cannot equally afford it. But, if any man has acquired so depraved an appetite, that he cannot endure four or six hours exercise (and a general review, if properly conducted, will not require

require more time) *without taking food or liquor*, he ought to be esteemed totally unqualified for the Association, till he can cure himself of such an *unmanly* and disgraceful habit, which is entirely inconsistent with the *military duty* even of a citizen.

Single decennaries, single platoons, or even single companies, should not be permitted to march into the country, *with their arms and uniforms*, by way of exercise or *amusement to themselves*, without an express leave, given by a general meeting of the associators, nor without due caution to be taken for preserving good order, by the attendance of a sufficient number of peace-officers, to prevent any disputes or affrays with strangers, lest the indiscretion of a few individuals of the corps, on such an excursion, should injure the reputation of the whole body of associators. And the third rule, given by a very ingenious and learned writer,

writer, in a tract, entitled "*An Inquiry*
 "*into the legal Mode of suppressing Riots,*"
 should be strictly observed; that the As-
 sociation should "*not, UNNECESSARILY,*
 "*march through streets or highroads, nor*
 "*make any the least MILITARY PARADE,*
 "*but consider themselves entirely as a part*
 "*of the CIVIL STATE."* And they
 ought also carefully to observe the caution
 referred to by his fifth rule, respecting
 the use of arms in suppressing RIOTS, viz.
 "*that it is extremely hazardous for pri-*
 "*vate persons to proceed to those extremi-*
 "*ties in common cases;*" and that they
 should not attend to any private person
 that shall "*PRESUME to raise the power*
 "*of the county, which is the province of*
 "*the sheriff, under-sheriff, or magistrate,*"
 but let them wait for a legal summons
 from those that have the proper authority,
 before they *take their arms* to assist in
 keeping the peace; though they have
 certainly

certainly a right to assemble as *neighbours*, without their arms, to consult, and use all peaceable endeavours to allay or prevent the ill consequences of any sudden commotion that has occasioned an alarm.

By the constitution of this kingdom, as well as by many express laws still in force, apprentices, wards, and indeed laymen, of all ranks and conditions, from fifteen to sixty years of age, are required to have arms, and be duly exercised in the use of them, for the national defence. (See p. 9-24.) It would therefore well become the housekeepers of every ward, and particularly those who are members of any ward-association, to encourage their apprentices, servants, and dependents, to learn their military exercise, (with the common militia-arms belonging to each house,) at such places in the ward as may be appointed for that purpose; the expence of which should first be defrayed

L

by

by the respective *ward-associations*, until the utility of the measure is rendered obvious to the wards at large, that the house-keepers at each wardmote may be induced to adopt it. For, by these means, the house-keepers might always have a sufficient number of able and well-instructed *substitutes*, to serve for them in the militia, which would thereby be rescued from the opprobrium of *incapacity*, with which it has so frequently of late been charged; and the necessity of any *new reform of the City-Militia* (which might be attended with very dangerous consequences to the rights and liberties of citizens,) would be thereby precluded. And if, in case of any more tumults or riots, an *armed City-watch* should again be thought necessary, these disciplined *Militia-substitutes in each ward* might be enrolled in a *Roster* for that particular service, under the proper *Militia-officers*; and their attendance might be so divided and diminished, by

a due *Roster*, as to be very little burthen-
some to the individuals enrolled; where-
by a small stipend to each, for the time
of his actual attendance, would be suffi-
cient to render the service *voluntary*.*

The appearance, also, of the City Mi-
litia might be rendered more respectable,
by the addition of *drill-jackets*, with some
proper distinction of *uniform facings*, to
denote the ward or district of each com-
pany.

* Or *Volunteers* might be invited, by rewarding a
certain adequate proportion of *watch-duty* with the *free-
dom of the city*; and by ordaining that no artificer or
journeyman, employed in the city, be molested as a
Non-freeman, provided he enters himself a *Volunteer* on
the watch-roll of the ward wherein he is employed.



a due Register, as to the very little portion
borne to the individuals enrolled; where-
by a small stipend to each, for the time
of his actual attendance, would be suffi-
cient to render the service voluntary.*

The appearance, also, of the City Mil-
itia might be rendered more respectable,
by the addition of drill-jackets, with some
proper distinction of uniform, jackets, to
denote the ward or district of each com-
pany.

* Or Volunteers might be raised, by rewarding a
certain adequate proportion of arms, as with the Ar-
my of the day; and by the same means, that no soldier or
journeyman, employed, be entitled to a
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the watch-roll of the



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London. If the proper barriers had been reserved, the citizens would have had time to get under arms on the first notice of the late riots, and might have preserved the peace of the city: an attack upon the gates would have justified an immediate discharge of fire-arms, 25. The inhabitants themselves form that proper power, from which the law requires the prevention of damages from rioters, 25, 26.

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Lord-mayor and sheriffs, the legal commanders of military associations, 75.

Loyalty. No Englishman can be loyal, who opposes the principles of the English law, whereby the people are required to have arms of defence and peace, 27. nor who does not dislike a government by arms and armies, 30.

M.

M.

Matthew, of Westminster, cited, 32.

Meda-Perſian dominion, 64, n.

Merum imperium, 60, n.

Metastafius, (Leopold,) cited, 60, n.

MILITIA. A *general militia*, acting by *rotation*, the only ſafe means of defending a *free people*, 35-49. The *militia* of England might ſupply a conſtant army in the field of 125,000 men, and yet retain, in every part of the country, eleven parts out of twelve of its ſtrength, duly trained by the rotation, 42, 44, 46. Might afford to loſe ſix ſuch capital armies, before it would be neceſſary to double the time of ſervice on the roſter, 46, 47. *Militia*, without rotation, becomes a *ſtanding army* of mere ſoldiers, 47. *Militia* of London; ſee *Trained Bands*. *Militia* of the counties; the preſent eſta bliſhment thereof favours too much of a *ſtanding army*, 59. Should be conſtituted on principles as oppoſite as poſſible to *ſtanding armies*, 66-68. *Militia* of New-England and Connecticut, 58. A *free militia* the only juſt means of internal national defence, 69, n.

Minsheu, cited, 10.

Musquet and Bayonet. The laws, which required every man to be exerciſed in the uſe of the *long-bow*, when eſteemed the moſt effectual weapon, by parity of *reaſon*, do equally require the exerciſe of the preſent fashionable weapons, the *muſquet* and *bayonet*, 14, 15.

Muſquets, or hand-guns, the right of all the inhabitants of cities, boroughs, and market-towns, to be armed therewith, acknowledged by ſtatute, 15, 16, 17, 18.

Myrror of Juſtices, cited, 20.

N.

Necceſſity of rejeſting the dangerous expedient of keeping *ſtanding armies* for defence, 36.

Newbery. Account of the battle near that place, 55-57.

New-England militia, 58.

O.

Odinus accipitrem, &c. an old Engliſh maxim never to be forgotten, 30-32.

P.

Parliaments ought to be newly *elected every session*, 68, n. and in an *equal proportion of representation*, which would be most conducive to the true interest both of king and people, 69, n.

People. Their right to *associate* for common defence, 5-9. and to *repel force and injury with force*, 6, 7, 8. To have *armour, harness, arms*, 10-13. To be *exercised in the use of such arms* as are esteemed the best for the safeguard of the realm, 14-24. Their power (*viz.* the power of the *commons in parliament*) is independent, 68, n.

Persian Government; see *Medo-Persian*.

Petrus de Montford, 68, n.

Platoons, 75, 76.

Power of the commons is independent, of which an example is cited, 68, n. There is no *supreme power* without their concurrence, 68, 69, n.

Power of the county, 9, 20.

Power of the king is not *supreme*, 66-69, n.

Prerogative. No prerogative of the king *against justice and equity*, 22, n.

Process of the law, through the king's courts, is the only proper mode of exerting the *executive power* in this limited monarchy, 21, n. and the *sheriffs*, attended by the *power of the countie*, must execute the king's (legal) writs, 20, 21.

Protestant subjects may have *arms* for their defence, 17.

R.

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S.

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T.

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THE END.

Wells, (criminal),
the negative sign in the
and a deadly power, the characteristic property of all
Wills, (unlimited), or immutability, is defined by
give the authority of the will, as it is, as it is,
will, (or whatever) which governs, and not law, de-
fel, 18.

Whom. Such as are liable to be censured, unlaw-



T H E E N D .

W. C. W.